



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
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ATLANTA, GEORGIA 30303-8960
July 16, 2015

Dr. Roy E. Crabtree
Regional Administrator
Southeast Regional Office
National Oceanic and Atmospheric Administration
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: Red Snapper Allocation Amendment 28 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico Draft Environmental Impact Statement; CEQ No.: 20150157

Dear Dr. Crabtree:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject National Oceanic and Atmospheric Administration (NOAA) Draft Environmental Impact Statement (DEIS) in accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. EPA understands that the purpose and need for the proposed Amendment is to evaluate the reallocation of the red snapper harvest consistent with the 2015 red snapper assessment update to ensure that allowable catch and recovery benefits are fairly and equitably allocated between the commercial and recreational sectors to achieve optimum yield.

NOAA evaluated eight Action Alternatives and one No Action Alternatives. Alternative 1 (No Action) would continue to allocate 49% of the red snapper quota to the recreational sector and 51% to the commercial sector. Alternatives 2, 3, and 4 are similar in that they consider fixed percentage increases to the recreational red snapper allocation of 3%, 5%, and 10%, respectively from Alternative 1 or No Action Alternative. Alternatives 5, 6 and 7 allocate increases in annual catch limit (ACL) above a certain threshold. At or below the threshold (Alternatives 5, 6, and 7 have varied degrees of thresholds), red snapper would continue to be allocated with 51% of the red snapper ACL comprising the commercial quota and 49% comprising the recreational quota. Alternatives 8 and Alternative 9 would base reallocation on the effects of revised recreational data used in the update stock assessment that led to higher stock ACL. The higher stock ACL is based on revisions to the calibrated Marine Recreational Information Program (MRIP) catch estimates in the recreational sector and changes in the recreational size selectivity due to recreational fishermen targeting larger fish. Alternative would allocate 51.5% and 48.5% of the red snapper quota to the recreational and commercial sectors, respectively. Alternative 9 would allocate the amount of quota attributable to the change in size selectivity by the recreational sector. NOAA selected both Alternative 8 and 9 as the preferred alternatives.

EPA has a responsibility to review and comment on major Federal actions significantly affecting the quality of the human environment, including FMPs and FMP Amendments (Amendments) as developed, approved, and implemented under the Magnuson–Stevens Act (MSA) where those Plans and Amendments are subject to the EIS requirement of NEPA, but it should be clear that we defer to NOAA and the Councils as to the development of fishery statistics and the relative importance of the commercial and recreational fisheries for each species.

EPA Comments on the DEIS:

1. Preferred Alternatives: EPA appreciates that several alternatives for proposed actions were presented and that preferred alternatives were identified in the DEIS. Overall, EPA is supportive of the preferred alternatives, but as noted in previous comment letters, EPA remains concerned regarding the confusing display of multiple preferred alternatives rather than having one preferred alternative. EPA continues to recommend that NOAA consolidate and concisely describe one preferred alternative. Specifically, EPA recommends that NOAA combine Alternative 8 and Alternative 9 into one Alternative.

2. Economic Analysis: Throughout Chapter 3.5 Description of the Economic Environment, NOAA displays several tables demonstrating economic indicators and the years displayed are 2010-2014. On page 58, NOAA identifies the issue that the recreational sector was impacted in 2010 by the Deepwater Horizon MC252 oil spill. As a way of comparison, EPA recommends that data from years 2008 and 2009 be included in the FEIS to better demonstrate the economic impact of the Deepwater Horizon spill.

3. Environmental Justice (EJ): On page 54 of the DEIS, NOAA discusses environmental justice issues and states that *“information on race, ethnicity, and income status for groups at the different participation levels and roles is not available”*. The DEIS does not provide a specific rationale as to why this information is not available. EPA recommends that NOAA clarify why this information is unavailable and include a discussion in the FEIS. Also, in Chapter 4 (Environmental Consequences) of the DEIS it does not discuss potential impacts to EJ communities. EPA acknowledges that there is a brief EJ considerations discussion in Chapter 3.5. However, there is no corresponding EJ impact discussion in the Chapter 4. EPA requests that NOAA consider a further review of the Council on Environmental Quality’s (CEQ) published guidance (Environmental Justice: Guidance under the National Environmental Policy Act, December 1997:

http://www.epa.gov/environmentaljustice/resources/policy/ej_guidance_nepa_ceq1297.pdf), and provide additional information in the FEIS pertaining to EJ and the potential environmental consequences of the proposed fishery management plan.

EPA DEIS Rating:

Although some clarification comments were offered for this DEIS, EPA generally supports NOAA and the Councils on the proposed alternatives and gives deference to their fishery expertise. Therefore, EPA rates this DEIS as LO-1 (Lack of Objections-Adequate). Attached is an explanation of the EIS rating criteria. We request that NOAA and the Councils directly respond to our attached comments in a dedicated section of the FEIS.

EPA appreciates the opportunity to review the DEIS. Should NOAA have questions regarding our comments on the DEIS, please feel free to contact Jamie Higgins at 404-562-9681 or by e-mail at higgins.jamie@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heinz J. Mueller", with a stylized flourish at the end.

Heinz J. Mueller, Chief *for*
NEPA Program Office
Resource Conservation and Restoration Division

**U.S. ENVIRONMENTAL PROTECTION AGENCY
ENVIRONMENTAL IMPACT STATEMENT (EIS) RATING SYSTEM CRITERIA**

EPA has developed a set of criteria for rating Draft EISs. The rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the draft.

RATING THE ENVIRONMENTAL IMPACT OF THE ACTION

- § LO (Lack of Objections): The review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action.
- § EC (Environmental Concerns): The review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact.
- § EO (Environmental Objections): The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). The basis for environmental objections can include situations:
1. Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;
 2. Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;
 3. Where there is a violation of an EPA policy declaration;
 4. Where there are no applicable standards or where applicable standards will not be violated but there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives; or
 5. Where proceeding with the proposed action would set a precedent for future actions that collectively could result in significant environmental impacts.
- § EU (Environmentally Unsatisfactory): The review has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed. The basis for an environmentally unsatisfactory determination consists of identification of environmentally objectionable impacts as defined above and one or more of the following conditions:
1. The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;
 2. There are no applicable standards but the severity, duration, or geographical scope of the impacts associated with the proposed action warrant special attention; or
 3. The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.

RATING THE ADEQUACY OF THE ENVIRONMENTAL IMPACT STATEMENT (EIS)

- § 1 (Adequate): The Draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.
- § 2 (Insufficient Information): The Draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has

identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the Draft EIS, which could reduce the environmental impacts of the proposal. The identified additional information, data, analyses, or discussion should be included in the Final EIS.

- \$ 3 (Inadequate): The Draft EIS does not adequately assess the potentially significant environmental impacts of the proposal, or the reviewer has identified new, reasonably available, alternatives, that are outside of the spectrum of alternatives analyzed in the Draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. The identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. This rating indicates EPA's belief that the Draft EIS does not meet the purposes of NEPA and/or the Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised Draft EIS.